



**OFFICE OF  
THE ATTORNEY GENERAL  
AUSTIN, TEXAS**

PRICE DANIEL  
ATTORNEY GENERAL

February 20, 1948

FAGAN DICKSON  
FIRST ASSISTANT

Hon. Will R. Wilson  
District Attorney  
Dallas County  
Dallas, Texas

Opinion No. V-508

Re: The proper fund from which  
to pay the matching con-  
tribution of the County  
for County Employee Re-  
tirement System.

Dear Sir:

Reference is made to your recent request for an opinion from this Department relative to the above captioned matter. It reads, in part, as follows:

"Dallas County is setting up a County Employee Retirement System as prescribed in Section 62-b of Article 16 of the Constitution of the State of Texas. In view of the fact that some employees of Dallas County are paid out of funds other than the general fund, for example, the Road and Bridge Fund, the question is presented as to whether the five percent to be paid by the County under the provision of the constitutional amendment, to match the deduction made from the employees' salaries, must be paid out of the General Fund or may the County pay such five percent out of the fund from which the employee is paid . . . .

"It is, therefore, requested that you furnish this office with an opinion on the question above presented, . . . ."

So far as is pertinent to your inquiry, Section 9, Article VIII, of the State Constitution provides:

" . . . and no county . . . shall levy more than twenty-five (25) cents for . . . county purposes . . . on the one hundred dollars valuation, . . . provided, however, that the Commissioners Court in any county

may re-allocate the foregoing county taxes by changing the rates provided for any of the foregoing purposes by either increasing or decreasing the same, . . . ."

Subdivision (b) of Section 62 of Article XVI, of the State Constitution is, in part, as follows:

"(b) Each county shall have the right to provide for and administer a Retirement, Disability and Death Compensation Fund for the appointive officers and employees of the county; provided same is authorized by a majority vote of the qualified voters of such county and after such election has been advertised by being published in at least one newspaper of general circulation in said county once each week for four consecutive weeks; provided that the amount contributed by the county to such Fund shall equal the amount paid for the same purpose from the income of each such person, and shall not exceed at any time five per centum (5%) of the compensation paid to each such person by the county, and shall in no one year exceed the sum of One Hundred and Eighty Dollars (\$180) for any such person."

We believe that providing funds by the county for such Retirement Disability and Death Compensation Fund is a county purpose within the meaning of Article VIII, Section 9, supra. The Supreme Court in the case of Bexar County v. Mann, 157 S. W. (2d) 134, in determining whether the Commissioners' Court was authorized to purchase voting machines and pay for same out of the General Fund of the county, had this to say:

". . . The statute does not in express words provide that the bonds issued thereunder shall be a charge against the general fund; but, in our opinion, it does so provide by necessary implication. This must be true because the Legislature by enacting the statute here involved has provided for the expenditure of county funds for a county purpose. Such expenditure does not come or fall under any purpose for which a special fund has been provided. All county expenditures lawfully

authorized to be made by a county must be paid out of the county's general fund unless there is some law which makes them a charge against a special fund. . . "

We believe that the same rule of law invoked in the above case is applicable to the question presented here. Therefore, you are respectfully advised that it is our opinion the five per cent to be paid by the County under the provisions of Subsection (b), Section 62 of Article XVI of the State Constitution, to match the deduction made from county employees' salaries, must be paid out of the General Fund of the County.

SUMMARY

The five per cent to be paid by the county under the provision of Subsection (b), Section 62 of Article XVI of the State Constitution, to match the deduction made from county employees' salaries, must be paid out of the General Fund of the county.

Yours very truly,

ATTORNEY GENERAL OF TEXAS

By



Bruce Allen  
Assistant

BA:mw

APPROVED:



FIRST ASSISTANT  
ATTORNEY GENERAL